

The Honorable MARSHA J. PECHMAN

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

A.B., by and through her next friend
CASSIE CORDELL TRUEBLOOD, et al.,

Plaintiffs,

v.

WASHINGTON STATE DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,
et al.,

Defendants.

NO. 2:14-cv-1178 MJP

JOINT STATUS REPORT RE:
FORTHCOMING EVIDENTIARY
HEARING

The Parties offer their shared vision for the forthcoming evidentiary hearing on Plaintiffs' motion alleging breach of a settlement agreement in this matter, to the extent it is helpful to the Court. The Parties welcome feedback from the Court to the extent the Court has a different vision for the forthcoming hearing, especially should any concerns relate to witness scheduling.

I. DATES

The Parties are prepared to present additional information at the request of the Court through the presentation of evidence and witnesses in-person at the United States District Court for the Western District of Washington, in Seattle, on March 28–31, 2023. The Parties are planning for the Court's unavailability on the afternoon of March 29, 2023.

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II. ROLE OF THE AMICUS

The Parties propose that the amicus counties be allowed ten minutes to argue their brief, on the morning of Tuesday, March 28, 2023. The Parties propose that any responsive comments from the Plaintiffs or Defendants would be included in comments at the conclusion of the hearing.

III. OPENING AND CLOSING STATEMENTS

The Parties both agree to waive any opening statement as to their own cases and prior to their presenting of their evidence.

The Parties believe they should be permitted argument on their motions, or a closing statement, after the close of evidence and on the final day of the evidentiary hearing.

IV. WITNESSES

The Parties estimate 3-4 hours for each witness. The Parties have convened to discuss the witnesses to be called and the order in which they should be called. In the interest of judicial economy, the Parties are agreed that it should not be necessary for witnesses to be called, and then recalled, to allow for each side to examine and cross-examine. Instead, the Parties agree to waive objection as to scope of cross-examination. The Parties agree that the State should take witnesses first, and then the Plaintiffs should be permitted an expansive cross examination of each witness, followed by re-direct and re-cross, if necessary. The Parties also agree that witnesses need not be excluded from the courtroom during testimony from other witnesses during this evidentiary hearing.

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1 The witnesses the Parties believe to be necessary, in the order proposed by the Parties,
2 are:

3 **1. Dr. Danna Mauch, Court-Appointed Monitor**

4 Dr. Mauch is to be called regarding her observations of the State's efforts towards
5 compliance, joint efforts by herself and the parties to engage county judges and prosecutors
6 regarding diversion options, and the like.

7 **2. Dr. Keri Waterland, Division Director, Division of Behavioral Health and**
8 **Recovery at the Health Care Authority (HCA)**

9 Dr. Waterland is the primary witness to be called related to the HCA's efforts to help the
10 State with compliance under Trueblood, and the State's efforts to transform the State's
11 behavioral health system including the creation of additional treatment options in the
12 community.

13 **3. Kevin Bovenkamp, DSHS Assistant Secretary for the Behavioral Health**
14 **Administration**

15 Mr. Bovenkamp is the primary witness to be examined regarding the Department's larger
16 vision for treatment bed space, progress toward construction and renovation of new bed space,
17 staffing, workforce development, and the like. Mr. Bovenkamp also participates in admission
18 and bed allocation decisions, but from a high-level perspective.

19 **4. Dr. George Petzinger, Medical Director of the Gage Center for Forensic**
20 **Excellence at Western State Hospital**

21 Dr. Petzinger is the primary witness to be examined regarding admission and treatment
22 at the Western State Hospital, the criteria and process for "triage" decisions regarding admissions
23 to the hospital, and the flow of patients through the Gage Center for Forensic Services to the
24 Civil Center.

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1 **5. Dr. Thomas Kinlen, Director of the Office of Forensic Mental Health**
 2 **Services**

3 Dr. Kinlen is the primary witness to be examined regarding the Department's
 4 competency restoration treatment admission algorithm, competency evaluation process and
 5 outcomes, evaluator staffing, and efforts to communicate to criminal courts when an individual
 6 has previously been found not competent to stand trial. Dr. Kinlen can also speak to contempt
 7 orders from state courts, but the statistical information requested by the Court will be generated
 8 by the Attorney General's Office and the Parties expect to stipulate to that information.

9 **V. EVIDENTIARY BINDERS**

10 The Parties are preparing their evidence for the Court, in accords with their best
 11 understanding of this Court's chambers procedures. The Parties expect to be able to stipulate to
 12 the authenticity of the vast majority of documents contained therein. To the extent any disputes
 13 exist as to authenticity, disputed documents will be clearly marked as such.

14 **VI. STIPULATED FACTS**

15 Again in the interest of judicial economy, the Parties are also jointly preparing a list of
 16 stipulated facts for the Court. The Parties believe that by stipulating to undisputed facts, the
 17 necessary scope of witness testimony can be reduced during the course of the hearing.

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VII. QUARTERLY STATUS REPORT

The Parties believe this hearing to be separate and apart from the regularly scheduled Quarterly Status Hearings, and expect the Court to resume scheduling Quarterly Status Hearings at some point after this evidentiary hearing. The Parties are therefore not preparing their Joint Status Report, choosing instead to rely on witness testimony and evidence to update the Court on implementation progress.

RESPECTFULLY SUBMITTED this 20th day of March 2023.

s/ Marko L. Pavela

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CERTIFICATE OF SERVICE

I, *Jade Wall*, state and declare as follows:

I am a citizen of the United States of America and over the age of 18 years and I am competent to testify to the matters set forth herein. I hereby certify that on this 20th day of March 2023, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

David Carlson: davide@dr-wa.org

Kimberly Mosolf: kimberlym@dr-wa.org

Elizabeth Leonard: bethl@dr-wa.org

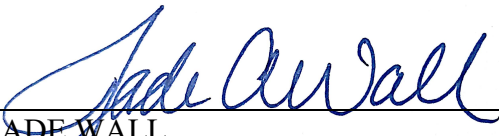
Christopher Carney: Christopher.Carney@CGILaw.com

Sean Gillespie: Sean.Gillespie@CGILaw.com

David JW Hackett: david.hackett@kingcounty.gov

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated this 20th day of March 2023, at Olympia, Washington.



JADE WALL
Legal Assistant